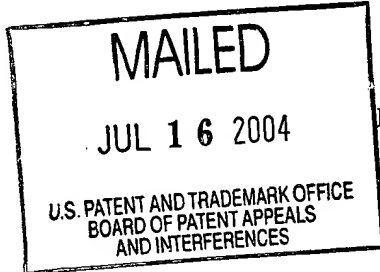


The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 29

UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THEODORE D. WUGOFSKI

Appeal No. 2003-0686
Application No. 09/002,600

ON BRIEF

Before KRASS, JERRY SMITH and GROSS, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1, 2, 4-13, 15-17, 20, 21, 24 and 26.

The invention is directed to automatically scheduling recordings, as in video cassette recorders (VCR), for example, wherein the VCR is programmed to record a program at a later time. More particularly, the invention is concerned with reminding users of an upcoming scheduled recording. The reminder

is helpful so that the user will remember that he/she may need to ensure that there is a tape in the machine, or that a tape in the machine has sufficient space, etc.

Representative independent claim 1 is reproduced as follows:

1. A method of operating a computerized system having a recording device for automatically recording data, the method comprising:

scheduling a data recording for the recording device, with the data recording to begin at a recording time;

receiving user input at least partially determinative of a recording reminder time for the scheduled data recording, with the user input being non-determinative of the recording time; and

outputting a recording reminder signal at a time based on the recording reminder time, before the recording device initiates automatic execution of the scheduled data recording.

The examiner relies on the following references:

Young	4,706,121	Nov. 10, 1987
Strubbe et al. (Strubbe)	5,047,867	Sep. 10, 1991
Hoff	5,467,197	Nov. 14, 1995
Ellis et al. (Ellis)	6,275,268	Aug. 14, 2001

(effective filing date Apr. 24, 1995)

Claims 1, 2, 4-13, 15-17, 20, 21, 24 and 26 stand rejected under 35 U.S.C. §103.¹ As evidence of obviousness, the examiner

¹The examiner changed the final rejection of claims 11, 13, 17, 21 and 24 under 35 U.S.C. § 102 (b) to a rejection under 35 U.S.C. §103 in response to the added limitation of "receiving user input . . . with the user input being non-determinative of the recording time . . ."

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offers Young and Ellis with regard to claims 1, 2, 8-11, 13, 17, 21, 24 and 26, adding Hoff with regard to claims 4-6, 12 and 15. With regard to claims 7, 16 and 20, the examiner offers Young, Ellis and Strubbe.

Reference is made to the briefs and answer for the respective positions of appellant and the examiner.

OPINION

At pages 5-6 of the answer, the examiner identifies the various portions of Young which allegedly correspond to the claimed features of claim 1, and notes that while Young teaches receiving user input at least partially determinative of a recording reminder time for the scheduled recording, Young fails to explicitly disclose the receiving of user input at least partially determinative of a recording reminder time for the scheduled recording, with the user input being non-determinative of the recording time.

The examiner turns to Ellis, specifically figures 1, 13 and 14, for a suggestion of asking a user as to whether the system should remind the user, at a predetermined time before the start of a scheduled program. If the answer is affirmative,

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microcontroller 16 stores reminder data and, at a predetermined time, a REMINDER 140 will be displayed on the TV receiver.

The examiner concludes that it would have been obvious to modify Young by adding the automatic reminder for the user so as to prevent the user from failing to view a desired program.

Appellant argues that the references are not combinable because there is no adequate motivation to do so. Moreover, appellant argues that even if the combination is made, the claimed subject matter does not result because while Ellis may disclose a user input for an adjustable reminder for viewing programs, it does not disclose the step of "receiving user input at least partially determinative of a recording reminder time for the scheduled data recording, with the user input being non-determinative of the recording time" (claim 1). Appellant also points out that Ellis only reports a reminder for viewing a program and not for a programmed recording.

We agree with the examiner.

Young discloses programming a device for automatically recording a program at a future time. As appellant points out, at page 9 of the principal brief, Young also teaches an alarm, or a reminder to a user that a short time remains before a selected

program is to be broadcast so that the TV receiver should be turned on, if it is off.

Ellis clearly teaches a reminder, albeit the reminder is for viewing a program which is scheduled to air at a future time, and not for reminding the viewer to record the program.

However, when viewing the teachings of Young and Ellis as a whole, it appears to us that the artisan would have taken the teachings of a reminder to view a program to be aired at a future time and applied such teachings to remind a user about recording a program at a future time. Whether a program is watched in real time or time shifted, by recording, to view at a later time, the teaching of the reminder by the prior art is what is important. One may view the teachings as a reminder that a desired program is going to be aired. The choice of whether the user employs that reminder as a reminder to sit down and view the program in real time, or as a reminder to record the program and watch it at a later, more convenient time, does not appear to be patentably distinguishable. Clearly, the artisan would have been led to use a reminder as a reminder to record. Clearly, the user input in the applied references, e.g., Ellis, at column 4, lines 5-8, is at least partially determinative of a recording reminder time, as the user sets the programmable reminder. If this reminder time

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is, say, 5 minutes prior to a broadcast, then the user input is non-determinative of the recording time, itself, as the recording time, itself, is set at 5 minutes later than the reminder time.

We also do not agree with appellant regarding the non-combinability of the references since they are both directed to electronic TV programming products/devices/methods and to viewing TV programs. The automatic recording of broadcast TV programs, as in Young, is certainly relevant to the viewing of TV programs at particular times, as in Ellis, and the artisan would have recognized the applicability of the reminder teachings to automatic recording of TV programs.

We note appellant's argument, at page 11 of the principal brief, that the combination is improper because Young does not require any modification to remind users to record a program since Young already includes means for programming the VCR to automatically record. If that were the case, there would be no need for appellant's invention since appellant's invention is directed to automatic recording at a predetermined time. Accordingly, using appellant's logic, what would be the need for appellant to modify an automatic recording with a reminder? The fact that there is an automatic recording does not lead to the conclusion, as appellant appears to be alleging, that there is no

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need to remind a user to record the program since the reminder is not to record the program, per se, but, rather, to make sure there is a tape in the VCR, that there is a sufficient length of tape to record the program, etc.

Accordingly, we will sustain the rejection of claims 1, 2, 8-11, 13, 17, 21, 24 and 26 under 35 U.S.C. § 103.

With regard to the rejection of claims 4-6, 12 and 15, the examiner relies on Hoff for the teaching of outputting a recording reminder signal wherein this comprises outputting a message to a network communication device associated with at least one user of the computerized system. The examiner concludes that it would have been obvious to further modify Young by including a means to output reminder messages to a network communication device, as in Hoff, "which would increase the capability of Young thereby making Young more commercially attractive" (answer, page 15, first paragraph).

Appellant argues that Hoff is concerned with VCR clock synchronization, recording of pager messages and programming via telephone; and that the passage (column 10, line 29 through column 11, line 48) cited by the examiner fails to indicate that the personal pager messages are reminder messages concerning scheduled or programmed VCR recordings. Moreover, argues

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appellant, there is no evidence that Hoff's VCR even transmits any pager messages out to external recipients or devices.

The examiner's response is that Hoff is merely cited to suggest transmission of messages through a communication network as, for example, via pager messages. The examiner alleges that such a transmission has "similar application whether the messages being transmitted through a communication network is a pager message or a recording reminder message," concluding that it would have been obvious "to transmit recording reminder messages through a communication network to a network device in the same manner that the pager messages are being transmitted through a communication network to [a] network device for the same purpose" (answer, page 22, first paragraph).

It is our view that the examiner's rationale is reasonable. Since Hoff teaches the transmission of messages through a communication network, the artisan would have been led to employ such a message receiving system to deliver the reminder message in the Young/Ellis combination, supra.

With regard to appellant's argument that Hoff's VCR does not transmit a message out to external recipients, and that Hoff appears "only to provide network or page communication to the VCR, not communications from the VCR to network devices" (reply

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brief, page 3, first paragraph), we are not persuaded since reference to instant claim 4 reveals that the claim does not say what is outputting the signal nor where it is going. As broadly claimed, it is our view that the examiner has set forth a prima facie case of obviousness with regard to the claimed subject matter.

Accordingly, we will sustain the rejection of claims 4-6, 12 and 15 under 35 U.S.C. § 103.

With regard to claims 7, 16 and 20, the examiner cites Young, Ellis and Strubbe, relying on Strubbe, at column 6, lines 25-49, for outputting a reminder signal including outputting a message concerning recording media. The examiner says this eliminates the possibility of using a recording medium with insufficient recording room to record a scheduled program, thereby running the risk of losing some valuable part of a program to be recorded.

The examiner concludes that it would have been obvious to add a message concerning recording media in the output reminder signal.

Appellant's only argument in this regard, at pages 16-17 of the principal brief, is to rely on the argument relative to claim 1, supra, i.e., that Strubbe does not provide for the

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